

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Dietz et al.**

Serial No.: **10/015,235**

Filed: **December 13, 2001**

For: **Streaming Internet Media
Record and Playback Software
Program**

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§ Group Art Unit: **2173**

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§ Examiner: **Pillai, Namitha**

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§ Attorney Docket No.: **AUS920010924US1**

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39698

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

AFFIDAVIT

**Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

I, Dell Whitton, being of sound mind and legal age, and fully aware of the punishable nature of making untrue statements as Affiant herein, do hereby attest to personal knowledge of the following:

I am employed by the law firm of Yee & Associates, P.C. (the "Firm"), as a Paralegal, in which capacity I personally receive all Notices of Abandonment and investigate the cause of the abandonment on behalf of the Firm and IBM Corporation (the "Client").

On the mailing date of the Office Action dated September 5, 2006, I was employed full time by the Firm. The Firm received a telephone call from the Examiner on March 20, 2007, inquiring of the status of the response to the September 6, 2006 office action. At that time, I stated to the Examiner that no response was filed because no office action had been received. The Firm received

a Notice of Abandonment dated April 6, 2007, informing applicant that the application had become abandoned due to failure to timely file a proper reply to the Office letter mailed on September 5, 2006. Upon receipt of the Notice of Abandonment, I printed the Office Action in question from the USPTO Patent Application Information Retrieval System (PAIRS) and forwarded it to the Firm's legal assistant, Monica Gamez, for docketing.

When a Notice of Abandonment is received, I review the file and contact the Client to decide how to proceed. If the Client wishes to proceed with abandoning the case, I make a note to that and close out the case in our system. If the Client does not wish to proceed with abandoning the case, I proceed with the proper paperwork to withhold.

Sworn to and attested as follows at Dallas, Texas on Friday, June 15, 2007:

AFFIANT:

Dell Whitton

Dell Whitton

On this the 15th day of June, 2007, personally appeared before me Dell Whitton, to me known to be the person named in and who executed the above instrument, and acknowledged that she executed the same for the uses and purposes therein mentioned.

Louise Fay
Notary Public
My commission expires: Nov. 28, 2009

(seal)

